

FIRST ANNUAL REPORT

VICTIMS OF CRIME ACT
R.S.P.E.I. 1988, Cap. V-3.1

September 30, 1989 - December 31, 1990

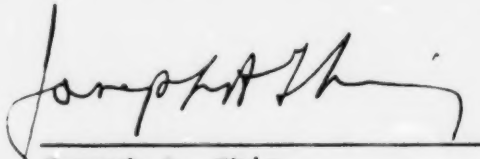
Prince Edward Island Department of Justice
105 Rochford Street
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Charlottetown, P.E.I.
C1A 7N8

TO: The Honourable Marion L. Reid
Lieutenant Governor
Province of Prince Edward Island

MAY IT PLEASE YOUR HONOUR:

I have the honour to submit the First Annual Report on the administration of the Victims of Crime Act, R.S.P.E.I. 1988, Cap. V-3.1 pursuant to section 36 of that Act.

I have the honour to be Madam your obedient servant.

A handwritten signature in dark ink, appearing to read 'Joseph A. Ghiz', written over a horizontal line.

Joseph A. Ghiz,
Minister of Justice
and Attorney General

TABLE OF CONTENTS

<u>Topic</u>	<u>Page No.</u>
Part I - Introduction	1
Part II - Report of the Victim Services Program	2
Part III - Report of the Criminal Injuries Compensation Program	5
Part IV - Victim Assistance Fund	16

PART I - INTRODUCTION

The Victims of Crime Act, R.S.P.E.I. 1988, Cap. V-3.1 was proclaimed in force September 30, 1989. Regulations and Orders under the Act also came into force on that date.

The Statement of Principles contained in Part I of the Victims of Crime Act sets out the following principles for the guidance of persons in providing justice for victims of crime:

- (a) Victims should be treated with courtesy and compassion and with respect for their dignity, privacy and convenience;
- (b) Victims should receive prompt and fair financial redress for the harm they have suffered;
- (c) Victims should be informed of and should have access to services including social, medical, legal and mental health assistance;
- (d) Victims should be informed about the progress of the investigation and prosecution of the offence, court procedures, the role of the victim in court proceedings and the ultimate disposition of the proceedings;
- (e) Victims are entitled, where their personal interests are affected, to have their views and concerns brought to the attention of the Court where consistent with criminal law and procedure;
- (f) Victims and their families should be protected from intimidation, retaliation and harassment;
- (g) Victims should have their stolen property returned to them as soon as possible after recovery by law enforcement authorities.

The other Parts of the Act include Victim Services, Victim Assistance Fund, Criminal Injuries Compensation, and General.

It is anticipated that the Victim Services Advisory Committee provided for in sections 3 through 6 of the Act will be appointed early in 1991.

PART II - VICTIM SERVICES PROGRAM

During 1990, the Victim Services Program was fully operational across Prince Edward Island. Staff included one coordinator, two Victim Services workers, and two part-time secretaries. Victim Services staff follow up from the initial police response to victims of crime and assist victims as their cases proceed through the criminal justice system.

A total of 812 new cases were opened during 1990. The 812 victims of crime contacted and offered assistance included: 419 general victims (52%), 234 wife abuse victims (29%), 72 sexual abuse victims (9%), 56 other family abuse victims (7%), and 31 commercial/institutional victims (4%).

Table I illustrates the types of Victim Services cases and the police agency (municipal police department or RCMP detachment) involved in each case. The Charlottetown Police Department was involved in the largest number of cases (308 or 38%), followed by the Summerside Police Department (133 or 16%), and Charlottetown RCMP (98 or 12%).

The types of crimes committed against these victims were most frequently assaults (382 or 47%); break, enter, and theft (81 or 10%); sexual assaults (72 or 9%); harassment (70 or 9%); threats (47 or 6%); and damage to property (41 or 5%). Also included were 38 cases of theft (5%) and 15 cases of driving offences resulting in injury or death (2%). The remainder consisted of a variety of types of crime, including 8 cases of robbery and 2 cases of attempted murder.

In addition to the 812 new cases, a number of cases opened during 1989 continued to be active during 1990.

Approximately 75% of Victim Services clients are female. Age range distribution of Victim Services clients is approximately 45% in the 21-40 age range, 30% in the 12-20 age range, and 15% in the 41-60 age range. Few clients are under 12 or over 60 years of age.

1

Assistance provided to victims of crime included: information about case status, the criminal justice system, and court procedures; investigations of applications for criminal injuries compensation; emotional support and short-term counselling; referrals for legal, financial, and long-term counselling services; and assistance through the court process and with the preparation of victim impact statements. Because the level of assistance varied depending on the needs of the particular victim, the time involved with each case ranged from a few minutes (e.g., providing information about available services and/or case status) to many hours.

Victim impact statements outline the physical, emotional, and financial effects of the crime on the victim. After a finding of guilt the judge may take a victim impact statement into consideration when deciding on sentence. During 1990, Victim Services staff assisted with the preparation and filing of approximately 180 victim impact statements.

Under the Victims of Crime Act, Part IV, Victim Services is responsible for investigating claims for criminal injuries compensation. Victim Services staff also assist victims with preparing their applications and gathering information to support their claims. During 1990, Victim Services staff investigated thirty-six claims for criminal injuries compensation.

The federal Department of Justice is assisting financially with the establishment of the Prince Edward Island Victim Services Program. In the longer term, the program, including criminal injuries compensation awards, is to be financed through cost-sharing agreements and revenue from the surcharge now being collected on federal and provincial convictions.

TABLE I

Department of Justice - Victim Services

VICTIM CASE CLASSIFICATION - JAN/01/90 TO DEC/31/90

Police Jurisdiction	Commercial/ Institutional	General	Sexual Abuse	Wife Abuse	Other Family Abuse	TOTAL
Alberton	6	24	2	12	4	48
Borden Police	0	2	0	1	0	3
Borden RCMP	2	3	0	5	2	12
Crown	0	0	0	1	0	1
Summerside CFB	0	0	1	0	0	1
Charlottetown City Police	7	191	16	77	17	308
Charlottetown RCMP	0	38	21	34	5	98
Kensington Town Police	0	1	1	2	0	4
Montague RC	3	32	13	22	5	75
St. Eleanors	2	5	1	3	1	12
Summerside RCMP	1	20	3	16	2	42
Summerside Town Police	10	75	6	33	9	133
Sherwood/Parkdale RCMP	0	9	1	15	6	31
Souris RCMP	0	19	7	13	5	44
GRAND TOTALS	31	419	72	234	56	812
PERCENTILE	4	52	9	29	7	100

PART III - CRIMINAL INJURIES COMPENSATION PROGRAM

INTRODUCTION

Prince Edward Island's Program for criminal injuries compensation is contained in Part IV of the Victims of Crime Act, which was proclaimed in force September 30, 1989. With the proclamation of the Prince Edward Island Act, all provinces and territories of Canada now have criminal injuries compensation programs.

The Victims of Crime Act is not retroactive; criminal injuries compensation can only be awarded in respect of an injury or death resulting from an act that occurred after September 30, 1989.

"TRIGGER" FOR AWARD

In general, a claim for criminal injuries compensation may arise in the event of injury or death by an act that OCCURRED IN PRINCE EDWARD ISLAND, and that injury or death must have directly resulted from the commission of a criminal offence prescribed in the Regulations under the Victims of Crime Act. The applicant need not be a resident of Prince Edward Island.

The term "injury" is specifically defined in the Victims of Crime Act to mean actual bodily harm, including pregnancy, and mental or nervous shock. If a person suffers only property damage as a result of a prescribed crime, he or she is not eligible for criminal injuries compensation. It is not necessary that anyone be prosecuted or convicted for the crime, but an award may be delayed pending the outcome of the criminal process.

The Victims of Crime Act also contains a "Good Samaritan" clause which provides that criminal injuries compensation may be awarded if the victim was assisting a police officer, or trying to stop or lawfully arrest someone committing or about to commit a crime. In the case of a Good Samaritan, the offence need not be included in the list prescribed by the Regulations under the Victims of Crime Act.

ELIGIBLE APPLICANTS

Compensation may be awarded:

1. To or for the benefit of the victim;
2. To any person in respect of expenses which they may have incurred as a result of the victim's death;
3. To any person who suffers monetary loss as a result of the victim's injury, as long as the maintenance of the victim is the responsibility of that person (for example, a parent or guardian of the victim); or
4. To any one or more of the dependents of a victim.

If the victim is culpable in relation to the offence or at the time of the offence was engaged in unlawful activity, criminal injuries compensation may be reduced or denied. Any behaviour on the part of the victim that contributed to the injury or death must also be considered when the claim is being assessed.

COMPENSABLE LOSSES

Compensable losses include the following:

1. Pain and suffering from personal injuries;
2. Reasonable funeral expenses;
3. Loss of income resulting from total, partial or temporary disability affecting the victim's capacity for work;
4. Financial loss suffered by dependents as a result of a victim's death;
5. Costs of maintaining a child born as a result of sexual assault;
6. Costs of treatment of mental and nervous shock;
7. Monetary loss resulting from grief or sorrow as a result of a victim's death;
8. Other monetary loss resulting from the victim's injury, and any other expense that, in the opinion of the Minister of Justice, it was reasonable to incur.

CALCULATION OF THE AWARD

The Victims of Crime Act directs that the amount of compensation be calculated in the same way as an assessment of damages in a private civil action. However, deductions must be made for any amounts recovered from the person who caused the injury, and any benefits received as a result of the incident under any federal or provincial statute other than benefits under a pension plan (e.g., unemployment insurance, workers' compensation, accident and disability insurance will be deducted, but Canada Pension Plan disability benefits will not be deducted).

MAXIMUM AWARDS

The maximum amount payable to ALL APPLICANTS in respect of the injury or death of one victim is \$15,000. The maximum amount payable to ALL APPLICANTS in respect of one occurrence (that is, one incident resulting in injury or death to more than one victim) is \$30,000. The award cannot exceed these limits.

TIME LIMIT

An application for criminal injuries compensation must be made within one year of the date of the injury or death, but the Minister of Justice may extend the time in special circumstances.

RIGHT OF APPEAL

The decision of the Minister of Justice on a criminal injuries compensation claim may be appealed to a judge of the Supreme Court, Trial Division on any question of law.

VARIATION OF AN AWARD

An award may be varied at any time upon the filing of an application for a variation by any interested person.

SUBROGATION RIGHTS

An applicant is required to notify the Minister of Justice of any civil action he or she initiates against the person who caused the injury or death.

PROCEDURE

An applicant need not retain the services of a lawyer to make a criminal injuries compensation claim.

Victim Services staff are available to assist with completion of the application form. Once the application form is completed, Victim Services staff conduct an investigation and the result of that investigation is forwarded to the Adjudicator in the Department of Justice. Shauna Sullivan Curley, a solicitor with the Department of Justice, has been designated by the Minister of Justice as the Adjudicator. She reviews the application and all supporting documentation and makes a recommendation in writing to the Minister with respect to eligibility for compensation and the amount of compensation. The Minister of Justice then makes his decision on the claim.

An exception to this procedure is when the claim is for less than \$250. For small claims, either Ellie Reddin, Co-Ordinator of Victim Services or Phil Arbing, Director of Community and Correctional Services, determines the eligibility of the applicant, fixes the amount of the claim, and makes an order for compensation.

Interim compensation may be paid to an applicant in respect of maintenance and medical expenses if

- (a) the applicant is in actual financial need, and
- (b) it appears to the Minister or an officer designated to act on behalf of the Minister that a criminal injuries compensation award will probably be granted.

COST-SHARING

Compensation awarded under the Victims of Crime Act is cost-shared between the Federal Government and the Government of Prince Edward Island. The contribution of the Federal Government amounts to 50% of the amount of the awards.

VOLUME OF APPLICATIONS

During the first fifteen months of the program's operation, thirty-six applications were filed for criminal injuries compensation. Ten awards were made, consisting of seven final awards and three interim awards. (Two interim awards were to the same applicant.) Two applications were refused, and two were withdrawn, with twenty-four being carried forward into the next year.* (see below)

It is anticipated that the number of awards will increase in the future. For example, decisions were made on five claims during the first three weeks of January, 1991.

* The files carried forward into next year consist mainly of those in which applications have been received, but all the supporting documentation (e.g., medical reports, confirmation of lost wages) has yet to be obtained.

APPLICATIONS - STATISTICAL SUMMARY
September 30, 1989 - December 31, 1990

Applications received	36
Awards made	10*
Final 7	
Interim 3	
Awards refused	2
Applications withdrawn	2
Applications carried forward to next year**	24

* Two interim awards were made to the same applicant.

** These include applications awaiting completion of investigation, as well as fully investigated claims awaiting decision as of December 31, 1990.

CRIMES INVOLVED IN COMPENSATION DECISIONS
made September 30, 1989 - December 31, 1990

<u>Criminal</u> <u>Code</u> <u>Section</u>	<u>Number of</u> <u>Applications</u>
271 (sexual assault)	2 (interim awards to same applicant)
267 (assault causing bodily harm)	7
266 (Assault)	1
343 (Robbery)	1
348 (Break, enter and theft, not covered)	1
	12

NOTE: Two applications involving 433 (arson) were withdrawn.

COMPENSATION PAID OUT

September 30, 1989 - December 31, 1990

TOTAL AMOUNT PAID OUT TO APPLICANTS	\$11,167.22
Pain and suffering	\$ 9,767.00
Out-of-pocket expenses*	\$ 1,400.22

*Does not include medical reports.

REASONS FOR REFUSALS

<u>Reason</u>	<u>Number</u>
Crime not covered by regulations under <u>Victims of Crime Act</u>	1
Victim culpability, contributory behaviour	1
Total applications refused	<u>2</u>

CRIMES INVOLVED IN COMPENSATION APPLICATIONS

Filed September 30, 1989-December 31, 1990

<u>Criminal Code Section</u>	<u>Number of Applications</u>
267(1)(b) (assault causing bodily harm)	20
267(1)(a) (assault with a weapon)	1
266 (Assault)	4
271 (Sexual Assault)	1
433 (Arson)	2
343 (Robbery)	1
235 (Murder)	4
348 (Break, enter and theft, not covered)	1
	36

COMPENSATION AWARDED BY LOCATION

Charlottetown	9	(2 interim awards to same applicant)
Summerside	1	
	10	

APPLICATIONS FILED BY LOCATION

Charlottetown	21
Summerside	8
Cornwall	1
Tignish	1
Tignish Shore	1
Montague	2
Long River	1
Kinkora	1
	36

AGE AND SEX OF VICTIMS
(Based on Compensation Awarded)

<u>Age</u>	<u># Victims</u>
1-10	0
11-20	6
21-30	0
31-40	2
41-50	0
51-60	0
61-70	1
70+	0
Total	9
 Male Victims	 6
Female Victims	3
	9
 Oldest victim	 68
Youngest victim	18

**EXAMPLES OF AWARDS MADE
(Summaries Only)**

- 7500-9/90 The 68 year old female applicant was assaulted and robbed by four young males while walking along a street in early evening. She suffered severe and extensive bruising necessitating a two week hospital stay. She also exhibited symptoms of post-traumatic stress disorder, including extreme anxiety about living alone, inability to sleep at night, fear of recurrence of the incident, and loss of over 25 pounds. The applicant was awarded \$4500 for pain and suffering for her physical injuries and nervous shock.
- 7500-5/90 The 18 year old male applicant was subjected to an unprovoked assault by a group of male persons. The applicant was kicked in the ribs and the head, suffering bruised ribs, and various cuts requiring stitches. The applicant was awarded \$750 for pain and suffering, and \$70 compensation for the value of clothing damaged in the assault.
- 7500-2/90 The 18 year old male applicant (a companion of the applicant in 7500-5/90 above) was subjected to an unprovoked assault by a group of male persons. The applicant suffered a broken right hand, and several cuts and bruises. His hand was in a cast for six weeks, causing him inconvenience in University and rendering him unable to assist on his family farm. The applicant was awarded \$2,000 for pain and suffering, and \$84.45 for the value of clothing damaged in the assault.
- 7500-1/90 The 20 year old female applicant was the victim of a sexual assault. Due to her state of mind after the assault, she was unable to work for a week. The applicant was granted an interim award of \$200 in respect of lost wages.

7500-8/90

The 32 year old male applicant was assaulted outside a club by a former co-worker. He suffered a cut under his eye requiring stitches, and is left with a scar. He also suffered multiple facial contusions, and a soft tissue injury to his elbow. The applicant suffered anxiety about the offender assaulting him again. In fact, approximately three months later the offender again assaulted the applicant. The offender was convicted under subsection 267(1)(b) of the Criminal Code in relation to the first offence. The applicant was awarded \$1,250 for pain and suffering, and \$180 for replacement of eye glasses, all relating to the first incident.

EXAMPLE OF AWARD REFUSED

(Summaries Only)

7500-14/90

The 33 year old male applicant claimed to have been struck in the face and beaten up by three males, resulting in a broken ankle and injury to his nose. Witnesses interviewed by the police all reported that the applicant had precipitated the assault by challenging, swearing at and insulting the three suspects. The applicant was intoxicated at the time of the incident, and apparently was in the middle of the street attempting to pick fights. In view of the victim's behaviour, including his intoxication on the night of the incident, the applicant was found to be the author of his own misfortune, and his claim for criminal injuries compensation was refused.

PART IV - VICTIM ASSISTANCE FUND

The Victim Assistance Fund is established pursuant to section 8 of the Victims of Crime Act, and consists of money collected from the victim fine surcharges imposed by section 9 of the Victims of Crime Act and section 727.9 of the Criminal Code, money from the federal government pursuant to the cost-sharing agreement, and any other moneys paid into the Fund from miscellaneous sources.

The Act provides that the Victim Assistance Fund is to be used for

- (a) salaries, expenses, and other costs associated with the Victim Services Program;
- (b) criminal injuries compensation awards; and
- (c) any other purpose the Minister of Justice considers necessary for carrying out the purposes of the Victims of Crime Act.

The fiscal year end of the Fund is March 31st.

PROVINCE OF PRINCE EDWARD ISLAND
VICTIMS ASSISTANCE PROGRAM
SUMMARY OF REVENUES AND EXPENDITURES

	FORECAST YEAR ENDED MARCH 31/91	ACTUAL YEAR ENDED MARCH 31/90	ACTUAL YEAR ENDED MARCH 31/89
REVENUES			
Fine surcharges - Federal Offences	40,000	10,720	
Fine surcharges - Provincial Offences	135,000	41,550	
Federal Cost-Sharing	63,600	156,795	
TOTAL REVENUE	238,600	209,065	94,585
EXPENDITURES			
Administration	8,500	6,121	6,994
Equipment	1,300	1,067	14,097
Materials and supplies	5,000	1,720	2,300
Professional services	13,500	9,300	7,250
Salaries and benefits	152,100	132,345	58,232
Travel	8,200	10,659	3,476
Criminal Injuries Compensation Awards	50,000	822	
TOTAL EXPENDITURES	238,600	162,034	92,349
EXCESS (DEFICIENCY) OF REVENUE OVER EXPENDITURE FOR THE YEAR	0	47,031	2,236
VICTIM ASSISTANCE FUND			
Balance, beginning of year	49,267	2,236	
Balance end of year	49,267	49,267	2,236

See accompanying notes

VICTIMS ASSISTANCE PROGRAM
NOTES CONCERNING REVENUES AND EXPENDITURES

1. GENERAL:

It is intended that the costs of The Victims Assistance Program be funded from a surcharge on fines and federal cost sharing.

2. FEDERAL COST SHARING:

The Federal Government has provided cost sharing for this program under two separate agreements. Under one agreement, which is intended to be an on-going one, the Federal Government will pay 50% of criminal injuries compensation awards to a maximum of \$50,000 per annum plus a maximum of \$50,000 towards the operating costs of The Victims Assistance Program. This agreement, which expired March 31, 1990, is expected to be renewed, effective April 1, 1990.

The Federal Government also provided special start-up funding under a separate agreement which expires March 31, 1991.

3. ACCOUNTING PROCEDURES:

All revenues and expenditures related to The Victims Assistance Program are recorded in the accounts of the Province and included in the Public Accounts.